

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 3

February 10, 2021

SUBJECT: RELEASE OF FIREARMS – REVISED AND RENAMED

PURPOSE: The purpose of this Order is to update the procedures pertaining to the release of firearms. Only sworn detective personnel or the assigned investigating officer shall approve the release of firearms.

PROCEDURE: Department Manual Section 4/560.40, *Release of Firearms*, has been revised and renamed, *Release of Firearms, Ammunition Loading Devices, or Ammunition*. Attached is the revised Department Manual section with the revisions indicated in italics.

AMENDMENTS: This Order amends Section 4/560.40 of the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.



MICHEL R. MOORE
Chief of Police

Attachment

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560.40 RELEASE OF FIREARMS, AMMUNITION LOADING DEVICES, OR AMMUNITION. Only sworn detective personnel *or the assigned investigating officer(s)* shall approve the release of firearms. Any person appearing before an Area desk requesting the release of a firearm shall be referred to the Area detectives *or the investigating specialized unit*, during their normal operating hours.

Proof of Ownership. The Department must accept any reasonable proof of ownership. Registration in the name of the lawful owner shall constitute proof of ownership. However, a lack of registration does not constitute a lack of proof of ownership unless registration is required by law for possession and/or ownership of the *firearm*. Unless there is articulable probable cause to disbelieve a sworn declaration *attesting to ownership*, a sales receipt, or other proof of ownership from the claimant, shall constitute proof of ownership.

Investigating Officer's Responsibilities. Investigating officers or their immediate supervisor, shall ensure that all firearms are returned to the lawful owner after determining whether the individual is lawfully entitled to possess the firearm. The investigating officer authorizing disposition or release of a firearm shall:

- Determine whether the individual is lawfully entitled to possess the firearm to be released in accordance with federal and state laws [*California Penal Code (PC) Sections 29800, 29805, 29815, 29820 and 29825*];
- Query the Automated Firearm System (AFS) and the National Crime Information Center (NCIC) to determine current "want" and registration information;
- Ensure that the appropriate "Evidence" entry appears in AFS;

Note: If the firearm is an LAPD stolen/lost and an "Evidence" entry does not appear in the AFS, the concerned *investigating* officer shall notify a supervisor in the Vehicle/Warrant Section, Records and Identification Division (R&I), to ensure that this omission is corrected.

- Check the owner/possessor's criminal history, Domestic Violence Restraining Order System (ROSI), the Mental Health Firearms Prohibition System (MHF), *warrants*, and *subjects criminal history* to verify there are no legal restrictions to the owner/possessor possessing the firearm;
- Inquire of the victim, suspect, and person reporting, if any restraining order(s) exists;
- Attach a printout of the AFS, ROSI, MHF, CCHRS, and NCIC query and owner's response to inquiry, to the work folder copy of the concerned report. If the firearm "Evidence" entry does not appear in the AFS, indicate that fact on the Detective Case Progress Log, Form 01.44.00, *Detective Case Tracking System (DCTS)*, and include the name of the R&I employee contacted;
- *Ensure the firearm is not restricted (e.g., assault weapon)*;
- If the firearm is to be released or disposed of within 90 days from the date of original booking, contact *Forensic Science Division, Firearms Analysis Unit*, to ensure that the firearm *has been test fired and finger printed or processed for DNA*, and recorded on Form 01.44.00 (*DCTS*), with the name and serial number of the *person* contacted;

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- If the firearm was booked as a result of a misdemeanor or felony arrest, check the Los Angeles Superior Court and Data & Document Exchange Services (DDES) to ensure that the firearm no longer has any evidentiary value and there are no firearms restrictions imposed on the defendant; and,
- If the firearm was booked pursuant to a search warrant, complete a Court Order for Search Warrant Property, Form 10.18.00, and obtain approval from the court to release the firearm to the investigating officer for disposition. The original Form 10.18.00 shall be submitted to R&I.

Upon completion of the above requirements:

- Complete a Property Disposition/Update Request, Form 10.06.00, and forward it to the Property Disposition Coordinator (PDC) for input into the Automated Property Information Management System (APIMS) if an Item Detail Summary Report has not been generated; or,
- Present a completed Property Disposition/Update Request to an Evidence and Property Management Division (EPMD) Property Officer for input into APIMS if property must be immediately released to a waiting individual with proper documents and the PDC is not available;
- Ensure the individual (i.e., owner of the firearm) seeking the return of the firearm, completes and submits a Law Enforcement Release (LER) Application to the California Department of Justice (DOJ), Bureau of Firearms;
- Ensure that the firearm being returned is registered in AFS (if required) to the claimant. The LER application entry alone does not meet the name entry criteria, referred to in 33855 PC and 33850 PC; and,
- Ensure that the owner of ammunition or ammunition loading devices seeking their return completes and submits a Law Enforcement Release (LER) application to the California Department of Justice, Bureau of Firearms.

Note: An Authorized Release (AR) entry notification via the APIMS to an Evidence and Property Management Division facility in order to release property, is appropriate **only** when a PDC or Area property officer is not available, and an immediate release is necessary.

When authorization to release is a teletype, the investigating officer shall include a statement that the firearm shows listed as "Evidence" in the AFS/NCIC system.

Note: Investigators shall not release firearms, ammunition loading devices, or ammunition in the field without a Form 10.06.00, or a Form 10.18.00 and supervisor approval.

Firearms Declared Nuisances. A firearm coming within the purview of the Dangerous Weapons Control Law and which is declared to be a nuisance per 29300 PC shall not be released except at the direction of:

- A written opinion of the City Attorney; **or**,
- A valid court order.

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Release of Firearms or Other Deadly Weapons to Persons with a Mental Illness. Before releasing a firearm or other deadly weapon to any person who has been previously detained due to a mental illness, the concerned investigating officer shall contact *the Mental Evaluation Unit (MEU), Case Assessment Management Program (CAMP) Unit* for advice in determining the conditions for release of the firearm or weapon (*Department Manual Section 4/260.25*).

Firearms Seized at Domestic Violence Incidents.

Investigating Officer's Responsibilities. In addition to the procedures outlined in *this section*, an investigating officer releasing a firearm seized at a domestic violence incident shall *make* the firearm available for release no less than 48 hours, but no longer than five business days after the seizure (*unless retained as evidence related to criminal charges brought as a result of a domestic violence incident or if it was illegally possessed pursuant to 18265 PC*).

Unclaimed Firearms. A firearm in Department custody *that has been authorized for release and is held* longer than *six months (180 days)* and not claimed by the owner or person who had lawful possession at the time the firearm was taken into custody shall be considered a nuisance and be disposed of as provided in 18000-18005 PC.

Release of Firearms to Licensed Firearms Dealers. If a firearm was seized and the owner/possessor disposes of the firearm by *transferring* it to a licensed firearms dealer, the Department *shall* release the firearm(s), except contraband, to the properly licensed firearms dealer authorized to take possession of and dispose of the firearms on behalf of the owner.

Firearms Used in Suicide. All firearms suspected of being *used in a* suicide shall be booked as evidence to provide the opportunity to test such firearms. The investigating officer shall be responsible for determining the final disposition of the firearm.

When it is necessary to retain the firearm, the *investigating officer* shall, within five *calendar* days following booking, notify the Coroner's Office of the reason for the hold.

Evidence and Property Management Division Responsibilities. *Evidence and Property Management Division* may dispose of or release a firearm from custody when disposition instructions have been received by one of the following means:

- Disposition instructions have been input into APIMS;
- A release authorization teletype has been received; or,
- A completed Property Disposition/Update Request, Form 10.06.00 has been received.

The Property Disposition/Update Request or teletype authorization shall be retained by the concerned property unit for a period of one year.